

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SANTA BARBARA DECLARING A MANDATORY UNPAID  
FURLOUGH FOR CITY EMPLOYEES DURING FISCAL  
YEAR 2012

WHEREAS, the City of Santa Barbara is presently facing serious economic hardships caused by decreased tax, fee and other City revenues;

WHEREAS, in response to these constraints, there is an ongoing critical need to reduce expenditures;

WHEREAS, a mandatory unpaid work furlough is an appropriate method to achieve City budgetary savings through reduction of hours paid to employees and it should avoid the need for the City Council to order the abolition of existing City positions as would otherwise be the unilateral right of the City Council under City Charter section 1008;

WHEREAS, it is in the City's best interest to support and encourage such a program; and

WHEREAS, in accordance with the provisions of various labor agreements and other employment policies the City may implement an unpaid furlough for Fiscal Year 2011-2012 upon the declaration by Council Resolution that a reduction in workforce is necessary for economic reasons and that a mandatory unpaid work furlough should be implemented.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT a reduction in workforce for Fiscal Year 2011-2012 is necessary for economic reasons, that a mandatory unpaid work furlough should be implemented, and that:

1. Participation in the furlough program is mandatory for employees in the following employee groups:
  - The City Administrator and the City Attorney,
  - Other unrepresented management employees, with the exception of Fire Battalion Chiefs,
  - Supervisory Bargaining Unit,
  - Treatment and Patrol Bargaining Units,
  - Police Bargaining Unit;
  - Police Management Bargaining Unit;
  - Fire Bargaining Unit;
  - Confidential employees, and

- Such other employee groups as Council may apply it to by Ordinance or Resolution.
2. The amount of the unpaid furlough for the City Administrator and the City Attorney shall be 83.5 hours. The amount of the unpaid furlough for confidential employees will be 116.5 hours. The amount of unpaid furlough hours for other employees shall be as provided under the applicable Management Salary Plan or labor agreement with a recognized employee organization adopted by the City Council.
  3. The furlough shall be conducted according to the Mandatory Furlough Plan, attached hereto as Exhibit A and incorporated herein by reference, or such alternate plan contained in a valid applicable labor agreement with a recognized employee organization.

**CITY OF SANTA BARBARA  
FISCAL YEAR 2012  
MANDATORY UNPAID FURLOUGH PLAN**

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**I. Purpose**

The purpose of this mandatory unpaid work furlough plan is to:

- Allow the City to address anticipated revenue shortfalls and increased expenses in Fiscal Year 2012 while minimizing the need for service cuts and staff layoffs; and
- Establish, in advance, a clear and understandable method to mitigate the impacts of a work furlough on affected employees.

**II. Definitions**

"Work furlough" refers to one or more hours of required unpaid leave taken on a consecutive or intermittent basis.

**III. Application**

1. This policy applies to such employee groups as Council may apply it to by ordinance or resolution.
2. Nothing in this plan shall restrict the right of the City to make bonafide permanent reductions in workforce, nor to otherwise reduce work hours for economic reasons, as authorized under the Santa Barbara City Charter, including but not limited to Sections 1007 and 1008, and the Santa Barbara Municipal Code. However, the City acknowledges that such alternate work reductions may trigger a separate duty to meet and confer with the City's recognized labor organizations about such decision(s) and/or the effects of such decisions on employees.

**IV. Declaration and Scheduling of Mandatory Work Furlough**

1. Implementation: This Mandatory Furlough Plan will be implemented to include the number of furlough hours for each employee contained in the

applicable Management Salary Plan, or labor agreement with a recognized employee organization, or other implementing resolution or ordinance adopted by the City Council.

2. Scheduling of Furlough: The City will have the sole authority to schedule the furlough periods, and such decisions shall not be subject to grievance or appeal.

- a) General Furlough Closure: The City will observe a General Furlough Closure, during which many City offices and operations will be closed.

Many employees in operations that are subject to the General Furlough Closure, and in other operations, will be scheduled to take furlough time off during these furlough closure dates. However, some employees will be scheduled to work during such closure periods based on City operational needs, or by mutual agreement between the employee and the employee's supervisor.

- b) Furlough Time Off Bank: Any furlough hours not scheduled to be taken as part of a General Furlough Closure shall become part of an employee's furlough time off bank. Employees will be scheduled to take the furlough time off at another time after July 1, 2011 but before June 15, 2012. Such time off shall be scheduled on the same terms as vacation under the applicable Memorandum of Understanding or other City policy.

- c) Rescheduling Furlough Time Off: If an employee is not able to take furlough time off as originally scheduled, the furlough hours will become part of the employee's Furlough Time Off Bank and will be rescheduled as provided in subsection "b", above. Supervisors will be encouraged, where practicable, to make reasonable efforts to avoid disruption to employees if scheduled furlough time off must be rescheduled (e.g. by finding qualified volunteers). However, this may not always be possible.

3. Application to Work Groups and Positions:

- a) Although this plan may be applied uniformly to all supervisory employees Citywide, the City may also apply this policy differentially to all or some work groups or positions at its discretion. Such decisions shall not be subject to grievance or appeal. For example:

- (1) The City may decide not to furlough certain work groups or positions because they are performing essential or contracted functions, because compensation is paid from restricted funding sources, or for any other business reason.
- (2) The City may also decide to furlough some work groups or positions at different times or for different durations than other work groups or positions for any business reason.

4. Application to Voluntary Hours Reduction Requests: Once a mandatory furlough is declared for Fiscal Year 2012 under this plan, employees who offered to voluntarily reduce their hours to part-time under the "Part-Time Work" Policy or to take an unpaid leave of absence under the "Leave of Absence Without Pay, Non-Medical Reasons" Policy during Fiscal Year 2012 will be provided an opportunity to rescind their voluntary part-time schedule or unpaid leave request.
5. Work During Furlough: No employee may perform work for the City during the furlough period unless authorized by management.

**V. Effect of Mandatory Work Furlough on Employee Pay**

1. Pay Reduction: The period of furlough time off will be unpaid. Furlough time off will be tracked under a separate unpaid hours code.
2. Non Exempt Employees- Pay Mitigation Plan:
  - a) For non-exempt employees, the wage loss from the mandatory furlough will be distributed evenly over the full fiscal year. Effective the first full pay period in Fiscal Year 2012, beginning on June 18, 2011, a bi-weekly deduction will be made from employee compensation in an amount equivalent to 1/26<sup>th</sup> of the total unpaid mandatory furloughed time through the end of the last pay period of Fiscal Year 2012, ending on June 15, 2012.
  - b) Mutual Reimbursement:
    - (1) For employees in active paid status as of the beginning of the fiscal year who terminate employment within the fiscal year:
      - (a) If, at the time of termination, the reduction in pay exceeds the furlough time off taken, the employee will be entitled to pay for the difference.
      - (b) If, at the time of termination, furlough time off taken exceeds the reduction in pay, the employee will need to reimburse the City for the difference in pay.
    - (2) An employee who is hired or otherwise enters active paid status after the beginning of the fiscal year will be scheduled for furlough time off and will have his or her pay reduced by an amount equivalent to 1/26<sup>th</sup> of the total furloughed time for the first 26 pay periods of employment. The employee will be subject to the same mutual reimbursement provisions in Section (1) above, if the employee terminates employment before the 26 pay periods are complete.
    - (3) An employee who is on unpaid status for any other reason at any point during the fiscal year will, upon return to active

paid status, be scheduled to make up any furlough hours not taken and will continue to have his or her pay reduced by an amount equivalent to 1/26<sup>th</sup> of the total furloughed time until 26 full pay periods of reduction have been achieved. The employee will be subject to the same mutual reimbursement provisions in Section (a) above, if the employee terminates employment before the 26 pay periods are complete.

3. Exempt Employees

- a) Exempt employees will be considered non-exempt employees under the Fair Labor Standards Act (FLSA) guidelines in any FLSA workweek in which one or more hours of unpaid furlough time off occurs (See 29 CFR 541.710(b)). Such employees will be eligible for hourly pay for any work performed during that FLSA workweek, just as non-exempt employees would be. Such employees may also be eligible for overtime compensation during any such FLSA workweek according to applicable FLSA guidelines. For purposes of this provision only, the FLSA workweek of an otherwise exempt employee will be the City's standard FLSA workweek, beginning and ending at midnight on Friday night, regardless of the employee's regular work schedule.
- b) Exempt Employees- Pay Mitigation Plan: Exempt employee pay will be reduced under the same Pay Mitigation Plan outlined for non-exempt employees in Section V.2, above.
  - (a) The City and the affected bargaining units agree that is our mutual good faith interpretation of 29 CFR 541.710(b) that the City may implement a pay mitigation plan for exempt employees without affecting the exempt status of such employees under the FLSA to a greater degree than expressed in Section V.3(a), above.
  - (b) If the City receives an opinion from the U.S. Department of Labor or other binding legal authority that indicates that the pay mitigation plan for exempt employees further affects the exempt status of such employees, the City will promptly notify the affected represented bargaining units and the parties will reopen negotiations within 30 days of such notice to determine an alternate method of furlough pay deductions that will preserve such employees' exempt status.
  - (c) Management employees must sign an agreement to participate in the Pay Mitigation Plan, otherwise the full pay deductions will be taken in the pay period(s) in which the furlough time off actually occurs.

## **VI. Benefits During a Mandatory Work Furlough**

1. Health, Life, and Cafeteria Plan Benefits: An employee shall receive continued medical, dental, vision, life insurance, and cafeteria plan benefits, including any City contribution, at the level the employee would have received absent the work furlough. Employees will be responsible for the same employee contributions to these benefits that they would have made absent the work furlough.
2. Retirement: To the extent allowable by CalPERS, and in compliance with any restrictions imposed by CalPERS, the City will ensure that retirement benefits will not be adversely impacted as a result of the furlough and related reduction in hours and/or salary.
3. Other Benefits: Other benefits may be reduced as required under normal benefit rules related to work schedule or unpaid leave. Such benefits include, but are not limited to: disability insurance or SDI/PFL contributions, Medicare contributions, etc.
4. Paid Leave Accrual: Employees will receive the same vacation, sick leave, personal leave, and management leave accruals they would have received absent the work furlough.
5. Legal Holidays: Employees on a work furlough shall receive legal holiday pay as follows:
  - a) Employees in classifications entitled to accrue holiday credit will continue to receive the same holiday credit.
  - b) For employees who do not accrue credit, where a legal holiday is observed during a period of work furlough, the employee will be paid hours for that holiday at the same level employee would have received absent the work furlough. In other words, that holiday will not count as an unpaid furlough day. For employees on a 9/80 or 4/10 schedule, the employee may be required to use accrued paid leave banks to make up the full paid holiday, as usual.
6. Use of Paid Leave: An employee will not be permitted to use accrued paid leave banks (vacation, sick leave, compensatory time, personal or management leave) during the unpaid furloughed hours.
7. Vacation Accruals: Management will make every reasonable effort to work with employees to avoid loss of vacation accruals or personal leave due to encroachment on accrual caps or time limits for use.
8. Standby and Call-back: An employee may be assigned to call-back or standby during a work furlough as provided under the applicable labor agreement or City policy. An employee called-back to active paid work during the unpaid furlough period will be required to take equivalent additional unpaid furlough during the remainder of the fiscal year.
9. Service & Seniority: Furlough shall not count as a break in City service and shall not affect seniority or eligibility for merit increases.

10. Schedule Changes: While an employee is on a furlough, schedule changes will be subject to the requirements of the applicable labor agreement
11. Overtime: Employees will only be eligible for overtime premium that they would have received absent the reduction in work hours (i.e., for over 40 hours in a workweek).
12. Probationary Period: Probationary periods shall not be affected by a mandatory furlough.
13. Limits on Benefit Continuation: Special benefit continuation under this furlough plan is available only to employees during their mandatory unpaid furlough period(s). Otherwise, employees are covered by benefit continuation under other City policies, including the City's applicable Leave Without Pay policies.